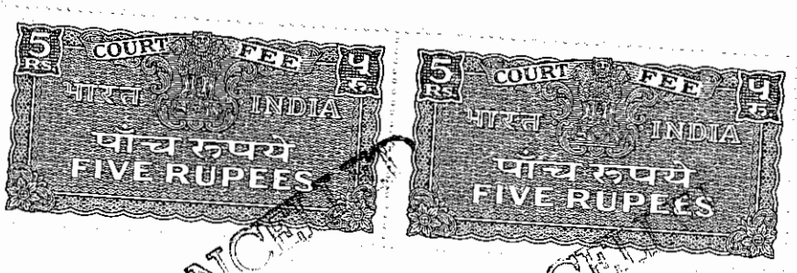

CF 100

(3)

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION NO. 1947 / 2004

Vijay Pratap Singh
S/o Shri Baldeo Singh
Aged about 25 years,
Resident of, New Market,
Main Road, Dalli Rajhara,
Durg,Dist : Durg-(C.G.) : **PETITIONER**

Versus

P.R. No. 10/12/04
Presented by Shri Rajesh Sharma
dated 9-12-04

1. State of Chhattisgrh
Through the Secretary
Department of Forest
D.K.S. Bhawan,
Raipur-(C.G.)

2. The Collector,
Through the Mining Department
Kanker

3. The Divisional Forest Officer,
East Bhanupratapur Forest,
District North Bastar, Kanker(C.G.)

4. The Deputy Ranger
Bhanupratapur
Dist : Kanker : **RESPONDENTS**

COMMISSIONER
ADVOCATE
8-12-04
RAIPUR Dist.

WRIT PETITION UNDER ARTICLE 226 & 227 OF THE CONSTITUTION OF INDIA

1. **PARTICULARS OF THE PETITIONER**

As per cause title.

2. **PARTICULARS OF THE RESPONDENTS**

As per cause title.

RECEIVED COPY
9/12/04
Clerk to A.G.
Bilaspur

XI-HC-22

(93)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक WP 1944/2004 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	30.07.2004 In view of the order passed in W.P. No.1944/2004 this petition stands disposed of. **Sd/-** **L.C. Bhadoo** **Judge**	

[पीछे देखिये

XI-HC-22

(94)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक WP 1944/04 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	30.07.2004 Shri R.S. Jaiswal, counsel for the petitioners. Shri Sumesh Bajaj, Deputy Government Advocate for the State/ respondents. S.D.O. (Forest) is present in Court. This order shall also govern the disposal of Writ Petition Nos.1945/2004, 1946/2004, 1947/2004, 2104/2004 & 2105/2004, as the question involved in these petitions is also similar. The petitioners have preferred these petitions under Article 226/227 of the Constitution of India being aggrieved by the order-dated 21.05.2004 (Annexure P-11) passed by respondent No.3-Divisional Forest Officer rejecting the applications of the petitioners for release of vehicles on Suprudnama. I have heard the learned counsel for the parties. Learned counsel for the petitioners submitted that on 22.04.2004 the petitioners' trucks bearing registration Nos. CG-07-ZC-2056, CG-11-ZB-0141, CG07-C-2070, CG07-C-2069, CG07-ZC-2050 & CG07-ZC-4335 carrying iron ore mineral extracted from the valid mining lease of one Anil Lunia granted by the State Government in the year 2002, were seized illegally by respondent Nos. 2 & 3 on a false ground of illegal mining. He further submitted that the	

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

trucks in question were seized on the route falling under the forest area, but the petitioners have already paid the road tax for the said route.

On the other hand learned Deputy Government Advocate argued that the iron ore, which the trucks in question were carrying, was extracted from the forest area not from the valid mining lease of Anil Lunia. As far as the payment of road tax is concerned, same was paid by the petitioner in collusion with some officials of the forest department and on coming to know that some officials of the department had received the road tax in collusion with the petitioner, departmental action has been initiated against them and road tax paid by the petitioner was ordered to be refunded. He further submitted that the route on which the trucks in question were seized is not a notified route and particularly for trucks in question no road tax have been paid by the petitioner. Therefore, he submitted that since offence pertains to forest produce and as per the Hon'ble Apex Court a strict view must be taken in this regard. He further submitted that confiscation proceeding is in progress and in another three months time that will be completed.

I have perused the impugned order dated 21.05.2004.

In the order passed by the Divisional Forest Officer (Annexure P-11) it has been mentioned that as per the

(96)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

provisions of the Indian Forest Act, 1927 and guidelines issued by the Government, there is no provision for releasing the vehicle and property on Supurdginama, therefore, the application filed by the petitioner is dismissed.

Section 53 of the Act, which deals with the release of property seized under Section 52 of the Act envisages that "any forest officer of a rank not inferior to that of a Ranger who, or whose subordinate, has seized any tools, boats, vehicle or cattle under Section 52, may release the same on the execution by the owner thereof a bond for the production of the property so released, if and when so required, before the Magistrate having jurisdiction to try the offence on account of which the seizure has been made".

Learned counsel for the petitioners submits that in place of the word 'carts' the word 'vehicle' has been inserted by the Act No.9 of 65, therefore, the order of forest officer on the face of it appears to be illegal and the petitioner is entitled for release of the vehicles on the conditions mentioned in the above clause.

As learned Deputy Government Advocate submitted that the confiscation proceeding is likely to take three months time, therefore for such a long period if the vehicles in question are allowed to remain in open area, it will cause damages to the vehicles and it may become junk. In such a

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(97)

आदेश पत्रक

मामला क्रमांक ..... **सन्** **200**

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

situation, I am of the opinion that it will be just and proper to release the vehicles in question on furnishing Suprudnama for each vehicle on following terms and conditions:-

- The petitioner shall furnish a bank guarantee to the tune of Rs.2 Lac before the Divisional Forest Officer, East Bhanupratapur Forest, District North Bastar, Kanker (C.G) within a period of two weeks from today.
- The petitioner will not transfer or alienate the said vehicles to the third party in any manner during the pendency of the confiscation proceedings.
- The petitioner will produce the vehicles in question before the Divisional Forest Officer as and when required.

With the aforesaid observation and directions, the petition stands disposed of.

Certified copy as per Rules.

Sd/-
L.C. Bhadoo
Judge

Roshan